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CONTRACTS—CONSIDERATION—ACTS DONE IN RELIANCE UPON A PROMISE.—The decedent left an informal document, which was ineffective as a will because not witnessed. In this paper the intestate cut off the defendant, his brother, with a legacy of ten dollars. After this document was found all of the heirs and the distributees of the estate mutually agreed to carry out the wishes of the intestate and to consider the document as his last will and testament. In pursuance of this agreement, three of the heirs moved from their own home to the homestead of the decedent and carried on the farm and milk route of the decedent, one of the heirs giving up his own business to do so. Subsequently the defendant refused to carry out the agreement on the ground that their signatures had been obtained by misrepresentation, and the other heirs sued for specific performance. *Held*, that the plaintiffs should have specific performance. *Capen v. Capen* (1920, Mass.) 125 N. E. 692.

The court properly found consideration in the payment to be made to the defendant, in the mutuality of the promises, and in the various acts done by certain of the plaintiffs in reliance upon the promise of the defendants, although these acts clearly appear not to have been an inducing cause of the promise. See Corbin, *Does a Pre-Existing Duty Defeat Consideration?* (1918) 27 YALE LAW JOURNAL, 362, 366; see also the cases collected in Anson, *Contract* (3d Am. ed. by Corbin, 1919) sec. 127 and notes.

CONTRACTS—UNILATERAL CONTRACT—PAST CONSIDERATION—BROKER'S COMMISSION.—The plaintiff negotiated with the Aetna Explosives Company on behalf of the defendant, perhaps without authority, the result being that the defendant later contracted with that company to supply it with six hundred tons of sulphuric acid per month for twelve months at twenty-seven dollars per ton, specifically promising the Aetna Company in that contract to pay the plaintiff as broker a commission of one per cent, "said brokerage to be paid as payments of the price were received by the defendant." After a few small deliveries had been made, on which the commission was paid to the plaintiff, the Aetna Company got into financial difficulties; it agreed with the defendant to rescind the contract for acid and paid to the defendant the sum of \$45,000 as consideration. *Held*, that the defendant was bound to pay the agreed commission on the agreed purchase price of the entire amount of acid, and not merely on the \$45,000 received, whether the defendant had employed the plaintiff as broker or merely promised to pay for his services knowing that they had been rendered with expectation of pay from him. *Suter v. Farmers' Fertilizer Co.* (1919, Ohio) 126 N. E. 304.

See COMMENTS, *supra*, p. 767.

CONTRACTS—WRITTEN DOCUMENTS—PAROL AGREEMENTS.—The plaintiff sued on a written document signed by the defendant in which the defendant promised to pay for a book to be compiled by the plaintiff and delivered at a future date. Evidence was admitted to show that this document was accompanied by an oral agreement that it should become operative only when the defendant should notify the plaintiff of his willingness to have it become a contract, and that he had not thus notified the plaintiff. *Held*, that the plaintiff should not recover. *Massachusetts Biographical Society v. Howard* (1920, Mass.) 125 N. E. 605.

This is in accordance with the general rule. Although the document was not signed by the plaintiff and contained no express promise by him to perform the work specified, yet the court apparently assumed that such a promise should be implied in fact. *American Publishing Company v. Walker* (1901) 87 Mo. App. 503; *Sanford v. Brown* (1913) 208 N. Y. 90, 101 N. E. 797; *Doolittle v. Calender* (1911) 88 Neb. 747, 130 N. W. 436. The evidence relating to the oral agreement was clearly admissible, because it shows, not only that the document